Minutes September 17, 2014

#### Memorandum 2014-39

# Minutes of Meeting on September 5, 2014 (Draft)

The California Law Revision Commission<sup>1</sup> held a meeting on September 5, 2014. A draft of Minutes for that meeting is attached for Commissioners to review.

The attached draft will be deemed final after it is approved by a vote of the Commission. When voting, the Commission may make specific changes to the Minutes. If so, those changes will be memorialized in the Minutes for the meeting at which the vote occurred.

Respectfully submitted,

Brian Hebert Executive Director

<sup>1.</sup> Any California Law Revision Commission document referred to in this memorandum can be obtained from the Commission. Recent materials can be downloaded from the Commission's website (www.clrc.ca.gov). Other materials can be obtained by contacting the Commission's staff, through the website or otherwise.

The Commission welcomes written comments at any time during its study process. Any comments received will be a part of the public record and may be considered at a public meeting. However, comments that are received less than five business days prior to a Commission meeting may be presented without staff analysis.

## **DRAFT MINUTES OF MEETING**

### CALIFORNIA LAW REVISION COMMISSION

# SEPTEMBER 5, 2014

### LOS ANGELES

A meeting of the California Law Revision Commission was held in Los Angeles on September 5, 2014.

#### **Commission:**

*Present:* Victor King, Chairperson

Crystal Miller-O'Brien, Vice Chairperson

Damian Capozzola Xochitl Carrion

Judge Patricia Cowett (Ret.)

Taras Kihiczak Susan Duncan Lee

Absent: Diane F. Boyer-Vine, Legislative Counsel

Assembly Member Roger Dickinson

Senator Ted Lieu

**Staff:** Brian Hebert, Executive Director

Barbara Gaal, Chief Deputy Counsel

Kristin Burford, Staff Counsel Steve Cohen, Staff Counsel

**Consultants:** None

#### **Other Persons:**

Paul Dubow

Jim Ewert, California Newspaper Publishers Association Philip Marshall, Los Angeles County District Attorney's Office

Michelle Stephens, Daily Journal Corporation

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#### MINUTES OF JUNE 12, 2014, COMMISSION MEETING

ADMINISTRATIVE MATTERS

- Memorandum 2014-29 presented a draft of the Minutes of the June 12, 2014, Commission meeting. The Commission approved the Minutes without change.

#### **Election of Officers**

The Commission considered Memorandum 2014-28, relating to the election of Commission officers. The Commission elected Victor King as Chairperson and Crystal Miller-O'Brien as Vice Chairperson, for terms commencing immediately and ending August 31, 2015.

#### Report of Executive Director

- The Executive Director reported on the following matters:
- Meetings held on Fridays may pose some scheduling difficulties. This issue will be discussed further in the upcoming memorandum on the Commission's meeting schedule for 2015.
- Former Executive Secretary Nathaniel Sterling made another generous gift to the King Hall Law School, to be used to support the Commission's work. The Chairperson will send Mr. Sterling a letter of appreciation. The gift will also be recognized in the next Annual Report. In addition, the staff will inquire about Mr. Sterling's availability to attend the October or December meeting for public recognition. If necessary for that purpose, the December meeting could perhaps be held in the San Francisco Bay Area. That issue will also be discussed in the upcoming meeting schedule memorandum.

#### 2014 LEGISLATIVE PROGRAM

The Commission considered Memorandum 2014-30, reporting on the Commission's 2014 legislative program. The Memorandum noted the enactment of Senate Bill 406 (Evans), which assigns a new study to the Commission. The Commission authorized the staff to begin work on that study immediately.

# STUDY G-300 — STATE AND LOCAL AGENCY ACCESS TO CUSTOMER INFORMATION FROM COMMUNICATION SERVICES PROVIDERS

The Commission considered Memoranda 2014-31, 2014-32, 2014-33, and 2014-34, discussing the scope of the study, cell phone searches, and federal privacy statutes. The Commission concurred in the staff's analysis of the scope of the study, and approved the staff's recommendation that the study be bifurcated, with the surveillance part of the study preceding work on government action affecting communication services. No other decisions were required or made.

# STUDY J-1314 — TRIAL COURT UNIFICATION: PUBLICATION OF LEGAL NOTICE

The Commission considered Memorandum 2014-37, presenting a draft tentative recommendation to address the issue of judicial district notice publication.

The Commission revised the draft to use the term "public notice district" in place of "publication district." With that change, the Commission approved the draft as a tentative recommendation, to be posted to the Commission's website and circulated for comment.

The Commission considered revising the term "warehouseman" in Commercial Code Section 6103(c)(16), to make it gender neutral, but decided against doing so. It is unclear whether substituting a gender neutral term might have unintended effects.

# STUDY K-402 — RELATIONSHIP BETWEEN MEDIATION CONFIDENTIALITY AND ATTORNEY MALPRACTICE AND OTHER MISCONDUCT

The Commission considered Memorandum 2014-35 and its First Supplement, discussing the law in other U.S. jurisdictions. The Commission also considered Memorandum 2014-36 and its First Supplement, relating to recent communications.

| 1  | The Commission discussed how to obtain more input from mediation parties           |
|----|--|
| 2  | and the difficulties involved. Commission members with specific suggestions on     |
| 3  | this matter will send their suggestions to the staff. The Commission also directed |
| 4  | the staff to send a notice to persons on the mailing lists for this study,         |
| 5  | encouraging them to spread word about the study to others who might be             |
| 6  | interested in it.  |
| 7  | No other Commission action was required or taken.                                  |
| 8  | Study R-100 — Fish and Game Law  |
| 9  | The Commission considered Memorandum 2014-38 and its First Supplement,             |
| 10 | discussing the Commission's study of fish and game law.                            |
| 11 | The Commission approved the location of certain definition provisions, as          |
| 12 | proposed in Memorandum 2014-38.  |
| 13 | The Commission deferred making any decision on the location of provisions          |
| 14 | governing falconry, as discussed in the First Supplement to Memorandum 2014-       |
| 15 | 38. The staff will solicit input on that issue from the Department of Fish and     |
| 16 | Wildlife.  |
|    | ☐ APPROVED AS SUBMITTED Date   |
|    | ☐ APPROVED AS CORRECTED Chairperson  |
|    | (for corrections, see Minutes of next meeting)  Executive Director                 |
|    | Executive Director   |